# EXHIBIT B

092-3093

**UNITED STATES OF AMERICA**
**FEDERAL TRADE COMMISSION**

| | |
|---|---|
|                               ) | |
| *In the Matter of*              ) | |
|                               ) | |
| **TWITTER, INC.,**         ) | |
| **a corporation.**           ) | **DOCKET NO. C-4316** |
|                               ) | |

## COMPLAINT

The Federal Trade Commission, having reason to believe that Twitter, Inc. ("Twitter" or "respondent"), a corporation, has violated the Federal Trade Commission Act ("FTC Act"), and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Twitter is a privately-owned, Delaware corporation with its principal office or place of business at 795 Folsom St., Suite 600, San Francisco, CA 94103.

2. The acts and practices of respondent as alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act.

**RESPONDENT'S BUSINESS PRACTICES**

3. Since approximately July 2006, Twitter has operated www.twitter.com, a social networking website that enables users to send "tweets" – brief updates of 140 characters or less – to their "followers" (*i.e.*, users who sign up to receive such updates) via email and phone text. Consumers who use Twitter can follow other individuals, as well as commercial, media, governmental, or nonprofit entities. Using Twitter, consumers may receive discount offers from companies, breaking news from media outlets, and public safety and emergency updates from federal and municipal authorities. In many instances, tweets invite users to click on links to other websites, including websites that consumers may use to obtain commercial products or services.

4. Twitter collects certain information from each user and makes it part of the user's public profile. Such information includes: a user name and profile image, lists of the other Twitter users whom the user follows and is followed by, and, at the user's option, a website address, location, time zone, and one-line narrative description or "bio." In addition, tweets appear in the user profile for both sender and recipient – and are public – except where users "protect" their tweets or send "direct messages," as described in **paragraph 6**, below.

5. Twitter also collects certain information about its users that it does not make public. Such information includes: an email address, Internet Protocol ("IP") addresses, mobile

carrier or mobile telephone number (for users who receive updates by phone), and the username for any Twitter account that a user has chosen to "block" from exchanging tweets with the user.  This nonpublic information (collectively, "nonpublic user information") cannot be viewed by other users or any other third parties, but – with the exception of IP addresses – can be viewed by the user who operates the account.

6.      Twitter offers privacy settings through which a user may choose to designate tweets as nonpublic.  For example, Twitter offers users the ability to send "direct messages" to a specified follower and states that "only author and recipient can view" such messages.  Twitter also allows users to click a button labeled "Protect my tweets."  If a user chooses this option, Twitter states that the user's tweets can be viewed only by the user's approved followers.  Unless deleted, direct messages and protected tweets (collectively, "nonpublic tweets") are stored in the recipient's Twitter account.

7.      From approximately July 2006 until July 2009, Twitter granted almost all of its employees the ability to exercise administrative control of the Twitter system, including the ability to: reset a user's account password, view a user's nonpublic tweets and other nonpublic user information, and send tweets on behalf of a user.  Such employees have accessed these administrative controls using administrative credentials, composed of a user name and administrative password.

8.      From approximately July 2006 until January 2009, Twitter's employees entered their administrative credentials into the same webpage where users logged into www.twitter.com (hereinafter, "public login webpage").

9.      From approximately July 2006 until July 2008, Twitter did not provide a company email account.  Instead, it instructed each employee to use a personal email account of the employee's choice for company business.  During this time, company-related emails from Twitter employees in many instances displayed the employee's personal email address in the email header.

## RESPONDENT'S STATEMENTS

10.     Respondent has disseminated or caused to be disseminated statements to consumers on its website regarding its operation and control of the Twitter system, including, but not limited to:

    a.      from approximately May 2007 until November 2009, the following statement in Twitter's privacy policy regarding Twitter's protection of nonpublic user information:

> Twitter is very concerned about safeguarding the confidentiality of your personally identifiable information.  We employ administrative, physical, and electronic measures designed to protect your information from unauthorized access.  (*See* Exhibit 1).

b.      since approximately November 17, 2008, the following statements on its website regarding the privacy of direct messages that users send via Twitter:

> **Help Resources/Getting Started/What is a direct message?**
> **What is a direct message? (DM)**
>
> **Private Twitter Messages**
>
> In addition to public updates . . . you can send followers private tweets, called direct messages, too . . .
>
> [direct messages] are not public; only author and recipient can view direct messages.  (*See* Exhibit 2; emphases in original).

c.      since at least November 6, 2008, the following statements on its website regarding the privacy of protected tweets that users send via Twitter:

> **Public vs protected accounts**
> **. . .**
> **Public or protected (private)?**
>
> When you sign up for Twitter, you have the option of keeping your account public (the default account setting) or protecting the account to keep your updates private . . . Protected accounts receive a follow request each time someone wants to follow them, and only approved followers are able to see the profile page.  If the idea of strangers reading your Twitter updates makes you feel a little weird, try protecting your profile at first. You can always change your mind later. . . .
>
> **Protecting your Twitter profile**
>
> Not everyone has to see your Twitter updates.  Keep your Twitter updates private and approve your followers by protecting your profile . . . Protected account owners control who is able to follow them, and keep their updates away from the public eye . . .  (*See* Exhibit 3; emphases in original).

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**RESPONDENT'S SECURITY PRACTICES**

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11.   Contrary to the statements above, Twitter has engaged in a number of practices that, taken together, failed to provide reasonable and appropriate security to: prevent unauthorized access to nonpublic user information and honor the privacy choices exercised by its users in designating certain tweets as nonpublic.  In particular, Twitter failed to prevent unauthorized administrative control of the Twitter system by, among other things, failing to:

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a.    establish or enforce policies sufficient to make administrative passwords hard to guess, including policies that: (1) prohibit the use of common dictionary words as administrative passwords; and (2) require that such passwords be unique – *i.e.*, different from any password that the employee uses to access third-party programs, websites, and networks;

b.    establish or enforce policies sufficient to prohibit storage of administrative passwords in plain text in personal email accounts;

c.    suspend or disable administrative passwords after a reasonable number of unsuccessful login attempts;

d.    provide an administrative login webpage that is made known only to authorized persons and is separate from the login webpage provided to other users;

e.    enforce periodic changes of administrative passwords, such as by setting these passwords to expire every 90 days;

f.    restrict each person's access to administrative controls according to the needs of that person's job; and

g.    impose other reasonable restrictions on administrative access, such as by restricting access to specified IP addresses.

12.    Between January and May 2009, intruders exploited the failures described above in order to obtain unauthorized administrative control of the Twitter system.  Through this administrative control, the intruders were able to: (1) gain unauthorized access to nonpublic tweets and nonpublic user information, and (2) reset any user's password and send unauthorized tweets from any user account.  In particular:

a.    On approximately January 4, 2009, an intruder used an automated password guessing tool to derive an employee's administrative password, after submitting thousands of guesses into Twitter's public login webpage.  The password was a weak, lowercase, letter-only, common dictionary word.  Using this password, the intruder could access nonpublic user information and nonpublic tweets for any Twitter user.  In addition, the intruder could, and did, reset user passwords, some of which the intruder posted on a website.  Thereafter, certain of these fraudulently-reset user passwords were obtained and used by other intruders to send unauthorized tweets from user accounts, including one tweet, purportedly from Barack Obama, that offered his more than 150,000 followers a chance to win $500 in free gasoline, in exchange for filling out a survey.  Unauthorized tweets also were sent from eight (8) other accounts, including the Fox News account.

b.      On approximately April 27, 2009, an intruder compromised an employee's personal email account, and was able to infer the employee's Twitter administrative password, based on two similar passwords, which had been stored in the account, in plain text, for at least six (6) months prior to the attack.  Using this password, the intruder could access nonpublic user information and nonpublic tweets for any Twitter user.  In addition, the intruder could, and did, reset at least one user's password.

## VIOLATIONS OF THE FTC ACT

### <u>Count 1</u>

13.     As set forth in **paragraph 10**, respondent has represented, expressly or by implication, that it uses reasonable and appropriate security measures to prevent unauthorized access to nonpublic user information.

14.     In truth and in fact, as described in **paragraph 11**, respondent did not use reasonable and appropriate security measures to prevent unauthorized access to nonpublic user information.  Therefore, the representation set forth in **paragraph 13** was, and is, false or misleading.

### <u>Count 2</u>

15.     As set forth in **paragraph 10**, respondent has represented, expressly or by implication, that it uses reasonable and appropriate security measures to honor the privacy choices exercised by users.

16.     In truth and in fact, as described in **paragraph 11**, respondent did not use reasonable and appropriate security measures to honor the privacy choices exercised by users.  Therefore, the representation set forth in **paragraph 15** was, and is, false or misleading.

17.     The acts and practices of respondent as alleged in this complaint constitute deceptive acts or practices, in or affecting commerce, in violation of Section 5(a) of the Federal Trade Commission Act.

**THEREFORE**, the Federal Trade Commission this second day of March, 2011, has issued this complaint against respondent.

By the Commission.


Donald S. Clark
Secretary

# EXHIBIT 1

- Skip past navigation
- On a mobile phone? Check out m.twitter.com!
- Skip to navigation
- Skip to sign in form

**twitter**

- Login
- Join Twitter!

# Twitter Privacy Policy

*This Privacy Policy is effective as of May 14, 2007.*

Twitter provides this Privacy Policy to inform users of our policies and procedures regarding the collection, use and disclosure of personally identifiable information received from users of this website, located at www.twitter.com ("Site" ) or collected through our social networking service, including via SMS, WAP and Instant Messaging ("Service" ). This Privacy Policy may be updated from time to time for any reason; each version will apply to information collected while it was in place. We will notify you of any material changes to our Privacy Policy by posting the new Privacy Policy on our Site. You are advised to consult this Privacy Policy regularly for any changes.

By using our Site you are consenting to our processing of your information as set forth in this Privacy Policy now and as amended by us. "Processing" means using cookies on a computer or using or touching information in any way, including, but not limited to, collecting, storing, deleting, using, combining and disclosing information, all of which activities will take place in the United States. If you reside outside the U.S. your personally identifiable information will be transferred to the U.S., and processed and stored there under U.S. privacy standards. By visiting our Site and providing information to us, you consent to such transfer to, and processing in, the US.

If you have any questions or comments about this Privacy Policy or our use of your personally identifiable information, please contact us at privacy at twitter dot com.

## Information Collection and Use

Our primary goals in collecting personally identifiable information are to provide you with the product and services made available through the Site, including, but not limited, to the Service, to communicate with you, and to manage your registered user account, if you have one.

**Information Collected Upon Registration**. If you desire to have access to certain restricted sections of the Site, you will be required to become a registered user, and to submit certain personally identifiable information to Twitter. This happens in a number of instances, such as when you sign up for the Service, or if you desire to receive marketing materials and information. Personally identifiable information that we may collect in such instances may include your IP address, full user name, password, email address, city, time zone, telephone number, and other information that you decide to provide us with, or that you decide to include in your public profile.

**Additional Information** Your full user name and your photo, if you decide to upload one, are displayed to people in the Twitter network to enable you to connect with people on Twitter, as specified in your privacy settings. Once a member, you may provide additional information in the profile section, including but not limited to your bio, your location, as well as your personal web site, if you have one. Providing additional information beyond what is required at registration is entirely optional, but enables you to better identify yourself and find new friends and opportunities in the Twitter system. If you activate the mobile phone options per the Terms of Service at www.twitter.com/tos, we will collect your cellular phone number account information. You will receive notifications on your cellular phone account in a number of cases, such as when a Twitter member adds you as a friend or sends you a message. If you contact us by email through the Site, we may keep a record of your contact information and correspondence, and may use your email address, and any information that you provide to us in your message, to respond to you.

**Use of Contact Information** In addition, we may use your contact information to market to you, and provide you with information about, our products and services, including but not limited to our Service. If you decide at any time that you no longer wish to receive such information or communications from us, please follow the unsubscribe instructions provided in any of the communications.

**Log Data** When you visit the Site, our servers automatically record information that your browser sends whenever you visit a website ("Log Data" ). This Log Data may include information such as your IP address, browser type or the domain from which you are visiting, the web-pages you visit, the search terms you use, and any advertisements on which you click. For most users accessing the Internet from an Internet service provider the IP address will be different every time you log on. We use Log Data to monitor the use of the Site and of our Service, and for the Site"™s technical administration. We do not associate your IP address with any other personally identifiable information to identify you personally, except in case of violation of the Terms of Service

## Cookies

Like many websites, we also use "cookie" technology to collect additional website usage data and to improve the Site and our service. A cookie is a small data file that we transfer to your computer"™s hard disk. We do not use cookies to collect personally identifiable information. Twitter may use both session cookies and persistent cookies to better understand how you interact with the Site and our Service, to monitor aggregate usage by our users and web traffic routing on the Site, and to improve the Site and our services. A session cookie enables certain features of the Site and our service and is deleted from your computer when you disconnect from or leave the Site. A persistent cookie remains after you close your browser and may be used by your browser on subsequent visits to the Site. Persistent cookies can be removed by following your web browser help file directions. Most Internet browsers automatically accept cookies. You can instruct your browser, by editing its options, to stop accepting cookies or to prompt you before accepting a cookie from the websites you visit.

## Information Sharing and Disclosure

**Service Providers** We engage certain trusted third parties to perform functions and provide services to us, including, without limitation, hosting and maintenance, customer relationship, database storage and management, and direct marketing campaigns. We will share your personally identifiable information with these third parties, but only to the extent necessary to perform these functions and provide such services, and only pursuant to binding contractual obligations requiring

such third parties to maintain the privacy and security of your data.

**Compliance with Laws and Law Enforcement** Twitter cooperates with government and law enforcement officials or private parties to enforce and comply with the law. We may disclose any information about you to government or law enforcement officials or private parties as we, in our sole discretion, believe necessary or appropriate to respond to claims, legal process (including subpoenas), to protect the property and rights of Twitter or a third party, the safety of the public or any person, to prevent or stop any illegal, unethical, or legally actionable activity, or to comply with the law.

**Business Transfers** Twitter may sell, transfer or otherwise share some or all of its assets, including your personally identifiable information, in connection with a merger, acquisition, reorganization or sale of assets or in the event of bankruptcy. You will have the opportunity to opt out of any such transfer if the new entity's planned processing of your information differs materially from that set forth in this Privacy Policy.

## Changing or Deleting Information

If you are a registered user of the Site, you may access and update or correct the information you provided to us by e-mailing us at <u>privacy at twitter dot com</u>.

## Security

Twitter is very concerned about safeguarding the confidentiality of your personally identifiable information. We employ administrative, physical and electronic measures designed to protect your information from unauthorized access.

We will make any legally-required disclosures of any breach of the security, confidentiality, or integrity of your unencrypted electronically stored personal data to you via email or conspicuous posting on this Site in the most expedient time possible and without unreasonable delay, consistent with (i) the legitimate needs of law enforcement or (ii) any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

## Links to Other Websites

Our Site contains links to other websites. The fact that we link to a website is not an endorsement, authorization or representation of our affiliation with that third party. We do not exercise control over third party websites. These other websites may place their own cookies or other files on your computer, collect data or solicit personally identifiable information from you. Other sites follow different rules regarding the use or disclosure of the personally identifiable information you submit to them. We encourage you to read the privacy policies or statements of the other websites you visit.

## Our Policy Towards Children

The Site is not directed to persons under 13. If a parent or guardian becomes aware that his or her child has provided us with personally identifiable information without their consent, he or she should contact us at <u>privacy at twitter dot com</u>. We do not knowingly collect personally identifiable information from children under 13. If we become aware that a child under 13 has provided us with personal identifiable Information, we will delete such information from our files.

## Footer

- © 2009 Twitter
- About Us
- Contact
- Blog
- Status
- Goodies
- API
- Business
- Help
- Jobs
- Terms
- Privacy

# EXHIBIT 2

Help Resources / Getting Started / What is a direct message?...

## What is a direct message? (DM)

Submitted Nov 17, 2008 by crystal

### Private Twitter Messages

In addition to public updates and @replies, you can send followers private tweets, called direct messages, too. If someone is following you, you can send a direct message from the web via the "message" link on the profile page. **(please note: you cannot send a direct message to a user who is not following you.)**
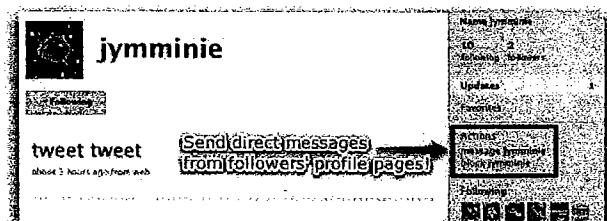


You can also send direct messages from:

- the reply icon attached to messages in your direct message inbox
- the drop down box on the direct message inbox page **(please note:** this is a random selection of people who are following you, not the complete list. If a follower's name is not on this list, use the options above or below)
- the status update box using the direct message command: d + username + message
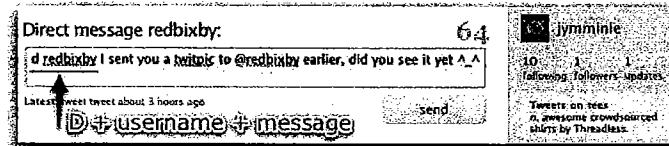


Tip: to reply to a regular Twitter update with a direct message from your home page, click the arrow/swoosh at the end of an update; this sets an @reply in the update box. Remove the '@' sign and replace it with a "d" and a space, and type the message. People who have their direct message text and email notifications set to ON will receive direct messages on their phones and/or via email. Tweets sent using any of the methods described above are not public: only author and recipient can view direct messages.

### More like tweets, less like email

Direct messages behave more like tweets than emails: any action the sender of a DM takes on a direct message will affect the recipient of that DM. As the recipient of the Direct Message, you have the ability to delete it; **the messages you delete also disappear from the sender's sent tab. Conversely, deleting direct messages you have sent will also delete the message from the recipient's inbox forever.**

The number next to your Direct Messages tab reflects the number of direct messages in your inbox. **If this number has changed recently and you have not deleted any of your messages, remember: the sender of the direct message has the ability to delete messages from your inbox**, these messages are not mysteriously disappearing or getting lost.

### Direct messaging from your phone

In addition to sending direct messages from the web, you can also send direct messages from different devices using d + username + message. (For example: d krissy I want to see that movie too; what are you doing this weekend? ) Send a direct message from:

- your phone
- most 3rd party applications

**Note:** If your message is longer than 140 characters and Twitter receives it intact, we will send your message in two parts for you. But, beware: if your service provider breaks up long messages into two parts before sending the message to Twitter, we will only see the d+username attached to the first message! The second part will post to the public time line as a regular update because it doesn't have the d+username preceding it.

### Receive direct messages when other tweets are off

You can turn phone notifications OFF and still receive Direct Twitters from followers. Here's how:

1. Log in to Twitter.
2. In the upper right hand navigation, click Settings.
3. Click the third settings tab, Mobile.
4. Use the drop down box to select Direct Messages. This means only direct messages will come to your device.

You can also do this directly from your phone. If notifications are ON, send OFF once to set your phone for direct messages only. Send OFF twice to turn on off all notifications to your phone. Haven't added your phone yet? Find more information about adding your phone here. Added your phone already? Find out what commands you can use!

### Related topics

Direct Message problems/confusion

Fixed: Unable to access direct message timeline

Frequently Asked Questions

Fixed: Account settings revert to original after making changes (Username, email, password)

Account restoration does not work

### Help Resources

Getting Started (42)

Using Twitter with your phone (25)

Troubleshooting (23)

Known Issues (39)

Impersonation, Trademark, and Terms of Service policies (14)

Twitter Support- ¡en español! (58)

Twitter Support - auf Deutsch (16)

Twitter Support - Italiano (23)

Twitter Support - en français (49)

**Search**

(All)                                       [Search]

Looking for information about @replies/mentions? Click here.

Help desk software by Zendesk

# EXHIBIT 3

## Help Resources / Getting Started / Public vs protected accounts

# Public vs protected accounts

Submitted Nov 06, 2008 by crystal

### Public or protected (private)?

When you sign up for Twitter, you have the option of keeping your account public (the default account setting) or protecting the account to keep your updates private. Public accounts have profile pages that are visible to everyone, and anyone can follow public updates without approval from the account owner.

Protected accounts receive a follow request each time someone wants to follow them, and only approved followers are able to see the profile page. If the idea of strangers reading your Twitter updates makes you feel a little weird, try protecting your profile at first. You can always change your mind later. Please note: **If your account is protected, we assume that you only want your followers to see your updates. @replies sent to people who aren't following you will not be seen. If you want to interact with everyone on Twitter, you should not protect your account.**

### Protecting your Twitter profile

Not everyone has to see your Twitter updates. Keep your Twitter updates private and approve your followers by protecting your profile. You can protect your profile in your account settings page. Protected account owners control who is able to follow them, and keep their updates away from the public eye. Private accounts can can always go public by un-checking the box in account settings.
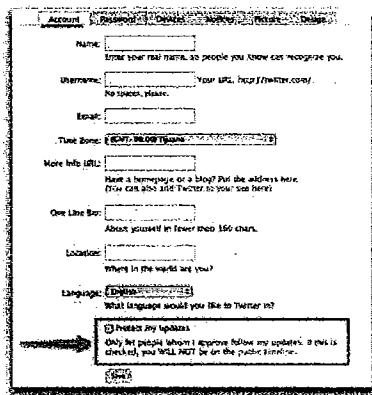


**To protect your profile:**
1. Log in to Twitter
2. Click Settings
3. Scroll down and check the box next to "Protect my Updates"
4. SAVE your changes.

When you navigate to your home page after protecting your profile, you'll see a notice reminding you that your profile is now protected.

### If I'm public and I decide to protect my profile, what happens?

If you have a public account and you protect it, all updates **after** the time of protection will be protected. Your profile will only be visible to approved followers, and existing followers will not be affected. You don't have to approve existing followers, nor do you have to follow them. You can stop sending updates to these followers at any time by clicking "remove" in your followers page. After protecting your profile, people will have to request to follow you, and each follow request will need approval. You can allow people to follow you without following them back.

### When someone requests to follow me, what happens?

When someone who has requested to follow you visits your profile, they'll see a note saying "You've requested to follow this person. Remove?" until you have taken action on the follow request or the request has been canceled. Keep in mind that when you protect your profile, you:

- must approve all follow requests for people who want to receive your Twitter updates
- exclude your information from Twitter search results
- cannot share static page URLs with non-followers

**If I let someone follow me, do I have to follow back?**

### Related topics

Twitter search still shows updates from my private account!

Missing mentions or replies

Fixed: Protected Accounts' Accepted Followers aren't showing up in Followers List and Requester Can't Request Again

Blocked/suspended users causing incorrect follow counts

I can't access my new follower requests!

### Help Resources

Getting Started (42)

Using Twitter with your phone (25)

Troubleshooting (23)

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Twitter Support - en français (49)

**Search**

(All)

Search

No. You can allow someone to follow you without following them back. If you change your mind and want to revoke follow privileges, visit your followers page, and click the remove button.

## Protected/Private Profiles & Search

Please note that tweets from protected profiles will not appear in search results. People will still be able to find your account using the Find People search tool but only people you've approved to follow your account will be able to see your tweets. Also note that any tweets posted while your profile is private will remain private indefinitely, and tweets posted while your account is public will remain public indefinitely.

Help desk software by Zendesk